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SUBJECT: SPEAKER QANOONI: BALL IS IN KARZAI'S COURT ON
ELECTION DATE DEBATE

Classified By: Political Counselor Alan Yu for Reasons 1.4(b)(d)

¶1. (SBU) SUMMARY. In a November 26 meeting with the Ambassador, Speaker Yunis Qanooni repeatedly claimed he had no particular position on the election debate issue and was flexible on timing, but could not resolve the problem on his own given the strong feelings of fellow parliamentarians. These MPs have two main concerns: 1) The Constitution will be weakened if the election is not held in the spring timeframe suggested in the Constitution; 2) Allowing Karzai to continue in office past May 21 would call into question the legitimacy of his presidency. Qanooni said the ball was now in President Karzai's court to convince MPs that a later election date was necessary and that it would not be a violation of the Constitution.

¶2. (C) The Ambassador stressed that the U.S. had no position on the election date or the various interpretations of the Constitution, but noted that, from a practical standpoint, the later the election date, the better the security environment and the stronger the election infrastructure. The Ambassador observed that other MPs and officials had made credible arguments that a fall election date would be more in keeping with the Constitution. They argued that moving elections to spring at this late date would undermine the broader constitutional tenet guaranteeing universal suffrage. Heightened security threats and insufficient logistical support would jeopardize broad voter participation. Article 33 of Afghanistan's Constitution states "Citizens of Afghanistan shall have the right to elect and be elected (with conditions of the right to be regulated by law)" and to the Election Law which states that "elections shall be through free, universal, secret and direct ballot." Proponents for fall elections also point out the Constitution's main point regarding the president's tenure is that it be five years. A full five year term would run to December 2009.

¶3. (C) Qanooni said Parliament had earlier proposed a Commission to interpret the Constitution and ensure its implementation, but Karzai had opposed the proposal. Such a Commission could still be established in less than a week and issue an opinion on the constitutionality of proposed election dates. (The Embassy opposes such a commission as it would shift constitutional interpretation from the Supreme Court to the Parliament and undermine separation of powers. Karzai has thus far effectively quashed the idea.)

COMMENT

¶4. (C) While it is almost certain that Qanooni doesn't hold an ideological position on the constitutionality of election timing, his ability to keep this controversial issue up in

the air while putting the executive branch on the defensive gives him - and the legislative branch - considerable political leverage. Therefore, any meaningful solution to this debate is unlikely to be a legal one, but instead will take the form of political deal hammered out behind the scenes between Qanooni and the Palace.

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